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February 27, 1994

FCC MAIL ROOM

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M. Street, N.W.
Washington, D.C. 20554

MAY 3 1994

RECEIVED

RE: *Reply Comments Upon Proposed Rule Making*
MM Docket 94-3
RM-8384
Silverton, Colorado

Dear Mr. Caton,

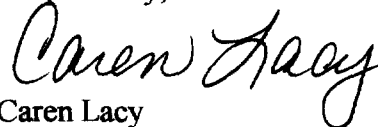
Herewith is an original, and three copies of *Reply Comments Upon Rule Making* hereby filed in connection with the above referenced proceeding.

Please date-stamp and return one copy of the document to me in the prepaid self-addressed envelope.

The original and two copies should then be routed to the appropriate offices for processing pursuant to Section 1.420 of the Commission's rules.

If you have any questions relating to the enclosed material, kindly contact the undersigned.

Respectfully,



Caren Lacy
Petitioner
1885 Ponder Heights Drive
Colorado Springs, Colorado
80906-5888

FCC-19.sam
Enclosures

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BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

Washington, D.C. 20554

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In the Matter of)
Amendment of Section 73.202(b))
Table of Assignments)
FM Broadcast Stations)
(Silverton, Colorado))

MM Docket 94-3
RM-8384

REPLY COMMENTS UPON PROPOSED RULEMAKING

Caren Lacy (Lacy hereafter), hereby submits her Reply Comments upon the Notice of Proposed Rulemaking in the above captioned proceeding.

1. Caren Lacy is the permittee of a Construction Permit on FM channel 259C2 at Durango, Colorado¹. Her construction at a designated BLM antenna farm site would result in an allocation conflict with an unused existing allotment on channel 257A at Silverton, Colorado.
2. At the request of Lacy, on January 14, 1994 the Acting Chief, Allocations Branch, Policy and Rules Division, adopted a Proposed Rule Making, proposing a change in the Table of Allotments with respect to the allocation of channel 257A at Silverton, Colorado.

¹ The Construction Permit is identified as BPH-910227MG, KWXA-FM.

3. The Proposed Rule Making if approved, would effect the deletion of channel 257A at Silverton², or in the alternative, result in the substitution of Channel 224A³, should someone wish to apply for Class A service in that community.

4. The Commission designated a Comment period in the referenced proceeding which concluded April 1, 1994. Caren Lacy timely filed her Comments on February 18, 1994.

5. The Commission further ordered that any interested party filing Comments relative to the proceeding, must by rule, serve a copy of the Comments upon Lacy. Comments were filed by Beachport Communications, an applicant for a new Class A facility in Glenwood Springs, Colorado. Lacy however, did not receive those Comments within the designated period for Reply Comments⁴. Beachport requested that the Commission not allocate Channel 224A to Silverton, as it would restrict an upgrade opportunity in Glenwood Springs. Beachport demonstrated that channel 227A or 238A could be allocated to Silverton if an action other than deletion of channel 257A was required.

6. No other Comments were served upon Lacy and the Commission has no record of other filings relative to this proceeding.

² The deletion of channel 257A is listed as "Option I" in the Proposed Rulemaking.

³ The substitution of channel 224A for Channel 257A is listed as "Option II" in the Proposed Rule Making.

⁴ The Comments were actually received by Lacy April 21, 1994. The Reply Comment period expired April 15, 1994.

7. Commission policy has not in the past generally afforded adversary allocation consideration to applicants in other communities, such as that requested by Beachport. Obviously, the upgrade possibility suggested by Beachport is only speculative, as its application has not been approved, and there is no pending Petition for Rulemaking seeking to amend the Table of Assignments, altering the allocation at Glenwood Springs.

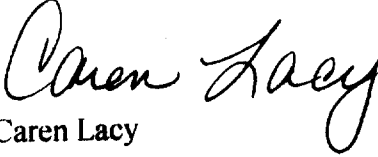
8. The Beachport request however appears to be moot, as no applications for Channel 257A were filed at Silverton within the designated period. As the Commission has proposed, it is now appropriate that channel 257A at Silverton simply be deleted.

9. Lacy again affirms that she will promptly seek to amend her Construction Permit and construct the station as stated in her previous filings

10. Lacy hereby requests that the Commission accept these Reply Comments formally or informally, submitting as grounds therefore that she did not receive Comments from Beachport within the prescribed period, and additionally submitting that no party would be prejudiced thereby.

11. All other submissions and representations made previously by Lacy are included herein by reference.

Respectfully submitted,


Caren Lacy

1885 Ponder Heights Drive

Colorado Springs, Colorado 80906

(719) 636-2470

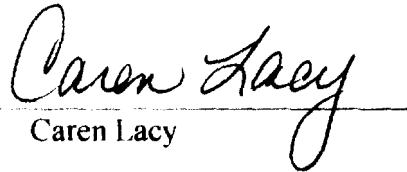
Dated April 26, 1994

FCC-18.sam

CERTIFICATE OF SERVICE

I, Caren Lacy, do hereby certify that I have, this 26th day of April, 1994 caused to be sent by United States First Class mail, postage prepaid, a true and correct copy of the foregoing to:

David M. Silverman
Cole, Raywid & Braverman
1919 Pennsylvania Avenue, N.W.
Suite 200
Washington, D.C. 20006


Caren Lacy